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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/028,514 02/23/98 GORFIEN S 0942.4110002

GRANT E REED
STERNE KESSLER GOLDSTEIN & FOX
SUITE 600
1100 NEW YORK AVENUE N W
WASHINGTON DC 20005-3934

HM12/0624

EXAMINER

WARE, D

ART UNIT

PAPER NUMBER

1651

DATE MAILED:

06/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/028,514

Applicant(s)
Gorfien et al.

Examiner
Ware

Group Art Unit
1651



☒ Responsive to communication(s) filed on Feb 23, 1998.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 0 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-139 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-139 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:


1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-37, 73-83, 106-112 drawn to a method for providing an animal cell culture, classified in class 435, subclass 325.
 - II. Claims 38-47, drawn to a kit, classified in class 435, subclass 287.
 - III. Claims 48-66, drawn to a composition, classified in class 435, subclass 41.
 - IV. Claims 67-72, drawn to a serum free culture, classified in class 424, subclass 93.1.
 - V. Claims 84-105 and 113-139, drawn to a eukaryotic cell, classified in class 424, subclass 93.21.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and kit for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus, kit or by hand, or (2) the kit as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another materially different kit.
3. Inventions I-V are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions . The inventions of I-V are not required to practiced together in the claimed subject matter thereby indicating their separateness in the art. The products III-V possess two way distinctness in that the Groups III-IV do not require the eukaryotic cell of Group V.


Art Unit:

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
6. A telephone call was made to Grant Reed on June 11, 1999, to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah K. Ware whose telephone number is (703) 308-4245.


Deborah K. Ware

June 21, 1999


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 12851